The A. F. of L. Weekly News Service gives news accounts and editorial interpretation of matters of national import occurring in the industrial, legislative, and judicial fields, and contains other information of benefit to the trade union movement.

AMERICAN FEDERATION OF LABOR

WEEKLY NEWS SERVICE

Entered as second-class matter September 30, 1912, at the Post Office at Washington, D. C., under the Act of August 24, 1912. Acceptance for mailing at special rate of postage provided for in Sec. 1103, Act of October 3, 1917, authorized July 11, 1918.

To see what is right, and not do it, is want of courage, or of principle.—Confucius.

WHOLE NO. 1311 WILLIAM GREEN, President WASHINGTON, D. C., SATURDAY, MAY 30, 1936 FRANK MORRISON, Secretary-Treasurer VOL. 26, NO. 22

Madden Says Guffey Decision Does Not Affect Labor Relations Act

Holds Supreme Court's Ruling in Stockyards Case Establishes Precedent for Constitutionality of Wagner-Connery Measure.

By A. F. of L. News Service.

Washington, D. C.—J. Warren Madden, chairman of the National Labor Relations Board, specifically declared, in an address before the Labor Institute at Pittsburgh, Pa., that the decision of the United States Supreme Court invalidating the Guffey Coal Stabilization Act has no effect on the Wagner-Connery Labor Disputes Act.

Mr. Madden, former dean of the University of Pittsburgh Law School, cited a number of decisions by the court dealing with a "flow" or "current" of commerce which would be relied on as determinative precedents in the forthcoming test of the Labor Relations Act before the Nation's highest tribunal.

Importance of Stockyards Decision

He pointed out that in its opinion on the Packers and Stockyards Act the Supreme Court admitted that services performed by stockyards were local in a sense, but also held that they "constituted interstate commerce in such a way as to permit Federal regulation.

Chief Justice Taft, according to Mr. Madden, proclaimed the idea that the stockyards were not a place of rest or final destination for livestock but one through which there was a "continually flowing traffic," that the yards were "but a throat through which the current flows," and that the transactions in the yards could not be separated from the movement to which they contributed.

Strikes Affect Commerce

Declaring that the Supreme Court has never overruled its decisions in the stockyards case and in other cases applying the same doctrine, Mr. Madden argued that "since a strike of the packing house employes may stop the flow of animals into and of products out of the packing plant, it would stop a stream of commerce," and would therefore come under the constitutional power of Congress to regulate such commerce."

"How then should we predict that the Supreme Court would decide our supposed case of the application of the Wagner Act to employes in the Chicago stockyards?" he continued.

"If the difference between a higher and a lower charge for yardage, which would have at most an almost infinitesimal effect upon the price of a ham or a cake of soap or a bag of fertilizer, which might be sold interstate out of a Chicago packing house, is sufficient to make that charge for yardage a matter of national concern because of its possible effect upon interstate commerce, what should be said of the direct effect of labor policies on the part of the operators of the stockyards, which policies according to definitely proved experience would be likely to result in strikes, which, if they occurred, would completely prevent the operation of the stockyards and the flow of animals into the packing houses and of meat and other products out of them?

"The decision of such a case in favor of the Federal power under the Wagner Act would seem to be much more obvious than it was under the Packers and Stockyards Act.

Labor Relations and Commerce

"If it be said that there is something about labor relations, as distinguished from all other sorts of relations, which prevent labor relations from having a bearing upon interstate commerce, the obvious answer to this assertion is two-fold. First, the court has adopted no such doctrine as is shown by its approval of statutes regulating the labor relations of employes on interstate railroads. Second, any such doctrine would ignore the reality of the situation because our own history has proved again and again what the Congress has expressly stated in the Wagner Act, and indeed what every man in the street knows, namely, that strikes in industries which stand in a current of interstate commerce not only affect that current but frequently stop it completely for the time being.

Supreme Court Opinion Cited

"If it be said that the strike in the stockyards which keeps thousands of animals from being unloaded and thereby dammed back the flow of animals into the yards and prevented the flow of animals from the yards to the packing plants and the flow of meat from the packing plants to consumers in other states, only 'stops commerce and does not 'affect' it, it would seem that the discussion had passed into a realm of legal mysticism, which it would be unwise to pursue farther, and which the Supreme Court in dealing with the actual problems of interstate commerce would not be expected to pursue.

"The following language of the court in the Swift case would seem to be a sufficient answer:

"'Commerce among states is not a technical, legal conception, but a practical one drawn from the course of business.'

Unfair Labor Practices

"And why should not unfair labor practices on the part of employers, if, as a matter of history and economic fact, they do threaten to 'affect' interstate commerce to the point of stopping its flow, be a proper subject of Federal regulation?

"If the regulation would have the effect of protecting the regular flow of commerce, is it any the less a legal and constitutional standing because it might also have the effect of protecting the workers involved in their governmentally admitted but often privately denied right of self-organization and self-protection?

"Many of the numerous Federal regulations of interstate commerce, in their principle purpose is to protect that commerce, also have incidental effects which are beneficial to certain persons or classes of persons, and the court has never suggested that that lays them open to constitutional objection."

LABOR BOARD DECIDES AGAINST BUS COMPANY

Orders Washington Concern to Reinstate Victimized Unionists and Cease Interfering with Employes' Rights To Join Union.

Washington, D. C. (AFLNS).—The National Labor Relations Board has ordered the Washington, Virginia and Maryland Coach Company, operating buses for the transportation of passengers and mail between Washington and Virginia points, to reinstate 18 employes who were discharged last March because of their activities in Local 1079, Amalgamated Association of Street, Electric Railway and Motor Coach Employes of America. The workers were bus drivers and garage men at the company's repair shop in Clarendon, Va. Back pay was ordered paid to the men from the date of the discharge.

In addition, the Board ordered the company to cease and desist from interfering with the rights of its employes to join labor organizations and bargain collectively through representatives of their own choosing.

In its ruling the Board said the union was organized last February and included a majority of the company's employes. The general superintendent of the company immediately began opposing the union, and the vice president, Mr. Carlton Morton, Jr., was reported as having said that he would burn the buses rather than recognize the local. Non-union men were given the union men's jobs as soon as they were discharged.

The board dismissed as without foundation the company's contention that the men were discharged for "inefficiency." It said the majority of them were "employes of long standing," and concluded that "their discharges were the direct result" of the determination of Vice President Arnold "to break up Local 1079."

Wage Increase Won

Mansfield, Mass. (AFLNS)—One hundred and fifty employes of the S. W. Card Manufacturing Company here won a 10 per cent increase in wages.

EDITORIAL

TAXING THE RICH

It is one thing to enact a law taxing the rich. It is another thing to enforce the law. This is illustrated in the suit by the Federal Government to collect $3,089,261 in back taxes and a 50 per cent fraud penalty for 1931, from Andrew W. Mellon, former Secretary of the Treasury.

The principle underlying the suit is connected with the allegedly frequent practice of wealthy people of making false sales of securities to register losses for income tax returns. Under the internal revenue law effective in 1931 if a person bought a certain security for, say, $100 a share and its market price fell to $75 he could only deduct the difference of $25 a share as a loss in his income tax return provided he sold the security and thus realized the loss.

One of the major items in the Government's case is linked with Mellon's sale of 123,452 shares of stock of the Pittsburgh Coal Company to the Union Trust Company, a Mellon-controlled concern, for $500,000. Mellon claimed he lost $1,-877,956.25 on the sale and deducted the amount from his income tax return.

The Government contends this transaction did not constitute a real sale.

One hundred and eighteen days after this "sale" the stock was repurchased by Mellon's agent at time previously, the Coalesced Company, for $517,378, and now is definitely "not for sale."

The Internal Revenue Bureau commissioner disallowed the deduction on the ground that it was not a legitimate sale, as permitted by law, and therefore the Government charges that the claimed loss of over $1,077,956.25 and the deduction of the amount from Mellon's income tax return was "false, and fraudulent and made with intent to evade and defeat" the income tax.

The Government's principal criticism of this alleged loss was based on testimony that the former Secretary of the Treasury had, at the time previously, refused $10,000,000 for 100,000 shares of the same stock from Frank E. Taplin, a wealthy coal operator.

In its brief the Government points out that the "sale" would never have been planned under the "goad of necessity," and as a proof of this claim cites the estimate made by Mellon himself of his possessions total over $200,000,000.

"The opportunities extended by the Government for avoiding taxes had left him above the need to be petty," the brief said, sharply.

"There is no mitigating circumstance unless success, wealth and power—according to standards engendered by existing ethics—are themselves a bulwark behind which tax evasion is safe."

Federal Housing Act Is Stressed by Wolll

Wagner-Ellenbogen Measure Held Necessary to Meet Shortage of Dwellings for Low-Income Groups and to Provide Work for the Jobless—Lack of 13,000,000 Houses Visioned.

By A. F. of L. News Service.

New York, N. Y.—The prompt enactment of the Wagner-Ellenbogen housing bill, which authorizes the expenditure of $875,000,000 over a period of years to encourage the construction of low-rent houses for those whose annual incomes make it impossible for them to purchase houses built by private enterprise, was emphasized by Matthew Woll, third vice president of the American Federation of Labor, in a radio address here on "Labor's Stake in the Housing Program."

Mr. Woll declared the measure would be of great assistance in solving the unemployment problem, which is especially severe in the building trades, and would provide safeguards against "government competition with private enterprise."

"The future of the housing movement in America is greatly involved in the passage of the Wagner-Ellenbogen Housing Bill," Mr. Woll said. "At the current session of Congress drawn to its close without affirmative action has been taken on this measure. The housing program is seriously threatened.

"To insure the immediate passage of this vital legislation, the solid ranks of the organized labor movement in the United States have rallied in its support. Last week the executive council of the American Federation of Labor served notice on Congress that the bill be passed without delay and personally urged the President to give it unqualified approval. This he has done.

"What makes the enactment of the low-rent housing and slum-clearance program so vitally important to the wage-earners? What will labor gain from the failure of Congress to enact such a program?

Jobs For the Unemployed

"First of all, the Wagner Housing bill is important because it will, more than any other piece of current legislation, help in solving our problem of unemployment. Building trades workers have suffered more than any other group from unemployment during the depression. Even in 1935, residential building was down to almost one-sixth of the 1923 activity and 74 per cent of the labor and construction forces were unemployed on the average in that year. While the stimulation of building activity will, under the Wagner-Ellenbogen program will open a new and important field of reemployment for building trades workers, it will also create jobs in other industries.

"A broad national housing program will open new channels for productive expenditure of private capital which has been dammed up and stagnant during the years of depression. Heavy industries which are closely related to construction will undergo an immediate regeneration and reabsorb a large number of the unemployed for whom no job opportunities are now open.

Meets Need of Low-Income Groups

"Secondly, the program is of vital importance to labor because it is designed to meet the needs of low-income groups and offer a solution for the acute low-rent housing shortage from which the wage-earners are now suffering. No alternatives to this proposal has been offered from any source and, unless the measure is adopted, the present shortage of low-cost housing will assume the proportions of a real crisis.

"The bill is also important because it embodies a nation-wide program of slum-clearance. It is the only comprehensive proposal whose adoption would effectively stamp out the existing severe congestion and blight which, together with crime, vice and other social evils that such living conditions breed.

Shortage of 13,000,000 Houses

"Ten years from now thirteen million additional dwelling units will be needed to meet the absolute minimum physical standards of decent living. This estimate is extremely conservative. It is based on the family occupancy standards of 1930 and does not even attempt to meet the present overcrowding and accommodations as one separate habitation for each natural family desiring to live itself. This is the most staggering when we consider that between 1920 and 1930, during the largest building boom this country ever witnessed, we only built around six or six and a half million new homes altogether.

Protection From "Gyp-Builders"

"The Wagner Bill is far-sighted in that it gives full recognition to this fundamental housing crisis and offers a preventive at a time when it can be most effective. The bill is socially sound in that it aims above all to extend the housing market to include the average family of low income. It recognizes that for private enterprise cannot do the job alone, yet provides every possible safeguard against Government competition with private enterprise. At the same time, it is designed to conserve private exorbitant costs and unscrupulous practices of gyp-builders.

"Because of the extremely small appropriation contemplated in the bill, the housing program offered by Senator Wagner can make but a modest beginning. But this beginning must be made without delay. For the Wagner measure will not only prevent a housing crisis, it will give balance to the current economic recovery and will answer the worker of his share in that recovery."

Outlaw Strike Pickets Fail To Block Sailing of Liner

New York, N. Y.—The Grace line Santa Elena sailed from here for California ports despite the picketing demonstration pulled off by the strike committee of seamen which had attempted to extend its strike to the ship's crew. The strike has been outlawed by the International Seamen's Union and a number of its leaders expelled from union membership.

The Santa Elena sailed with a full crew, of which only five were said to be replacements for former employes.

HOUSE UNIT FAVORS REVISED COAL BILL

Ways and Means Committee Backs New Guffey Measure—Wages, Hours and Work Regulations Are Eliminated — Price Fixing Retained.

By A. F. of L. News Service.

Washington, D. C.—A substitute bill for the Guffey law to stabilize the bituminous coal industry, held unconstitutional by the United States Supreme Court because of its labor provisions, was reported favorable to the House of Representatives by the Ways and Means Committee.

The new measure, sponsored by Senator Joseph F. Guffey of Pennsylvania and Representative Fred M. Vinson of Kentucky, carefully excludes features deemed likely to meet with juridical disfavor. The provisions of the old measure relating to the regulation of wages, hours and work conditions are entirely eliminated. The price fixing provisions are retained, including the 15 per cent excise tax on all bituminous coal sold. The 90 per cent rebate for operators and distributors accepting the code provisions.

Enlarged Commission

The new bill also includes the establishment of the Bituminous Coal Commission, created by the original measure, from 5 to 7 with the provision that two commissioners shall represent labor, two industry and one the public interest. The provision of the old law for a Consumers' Council representing the general public has been retained.

There are also provisions, picked up from the trade practice provisions of marketing and fair trade practices including graduated minimum price areas and authority to fix maximum prices in certain cases.

Collective Bargaining Held Public Policy

The measure includes a general statement of policy on collective bargaining but without any compulsory penalty. The text of the declaration follows:

"It is hereby declared to be the public policy of the United States that employes shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from interference, restraint, or coercion of employers, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; and that no employe and no one seeking employment shall be required as a condition of employment to join any company union. Nothing contained in this act shall be construed to repeal or modify section 6 of the act, June 1, 1932 (ch. 90, 47 Stat. 70), or any other Act relating to labor relations."

Guffey Says It Is Constitutional

The bill is based entirely upon the commerce clause of the Constitution which gives the Congress power to control all transactions in interstate commerce, and is believed by its sponsors to meet the objections which the Supreme Court raised in outlawing the original act.

"With elimination of the labor features of the original Guffey Act," Senator Guffey declared, "the power of Congress to regulate under the commerce clause is its undisputed power under the Constitution to regulate interstate commerce. The validity of this measure is its undisputed power under the Constitution to regulate interstate commerce. The validity of this measure is not affected by other supporters of the legislation.

So far as the bituminous coal operators and others having a business interest in the industry the operation of the new bill will prove no different from its predecessor, since the essential code and price regulation features remain almost unaltered.

Lewis Favors Measure

The coal miners are the only ones who gain under the substitute measure. But the willingness of the miners, who realize that their welfare depends upon the stability of the entire industry, to continue in a cooperative role is assured by John L. Lewis, president of the United Mine Workers of America, who came out in favor of the immediate enactment of the new measure.

The new bill will be up for speaking to Congress for enactment of the Guffey-Vinson Bill at this session and without delay." Mr. Lewis declared.

"Such congressional action is imperative to prevent disequilibrium of the industry and to facilitate further study of the coal situation. Much remains to be done in a legislative way that will make for the industry's permanent welfare."

The new bill has the support of the Special Legislative Committee of the National Conference of Bituminous Coal Producers, representing more than 800 operators in 22 States. Charles O'Neal, chairman of the committee, urged its members to appeal at once to Congress for prompt action.

N. Y. Judge Sustains High Hand-Set Telephone Price

Albany, N. Y. (AFLNS)—Telephone users in New York will be compelled to pay 15 cents a month instead of 15 cents to the New York Telephone Company for the use of hand-set telephones, according to a decision handed down by the Appellate Court here which upheld the liberal the order of the Public Service Commission reducing the former 15 cent charge. The reduction was reached by a three-to-two vote. The Court's decision, however, would cause a loss to the company of approximately $1,000,000 without permitting the latter to show proof that its net operating income is inadequate to stand the 15 cent per month reduction. The Public Service Commission in issuing the reduction order refused to receive testimony to that effect.

NICARAGUAN GOVERNMENT BLOCKS GENERAL STRIKE

By A. F. of L. News Service.

Dispatches from Managua, Nicaragua, state that following a general strike declared at Bluefields the National Guard took over telegraph, telephone and radio communications. It was reported that the strike was caused by the refusal of the National Guard to remove certain city officials and replace them with "honorable men."

COAL COMMISSION NOT ENDED BY HIGH COURT

Comptroller McCarl Rules Body May Continue With Limited Functions.

By A. F. of L. News Service.

Washington, D. C. — The National Bituminous Coal Commission will continue its existence and perform a number of important functions despite the Supreme Court decision invalidating the Guffey Coal Stabilization Act, according to a ruling by J. R. McCarl, Comptroller General of the United States. The ruling was made in response to a request from Secretary of the Interior Ickes. The Comptroller General declared that the commission may continue to carry on the functions not specifically outlawed by the Supreme Court's edict.

It was pointed out by McCarl that the court invalidated those portions of the statute levying a tax on bituminous coal and the formulation of the code covering wages, hours and price fixing. But the court specifically stated, he added, that the validity of any portion of the act, standing independently, on which it had not specifically passed, would remain for future consideration.

Two Fields of Activity Remain

Because of this exception the Comptroller General held the wording of the coal stabilization statute would permit the commission to carry on two definite activities:

1. An investigation as to the necessity for the control of bituminous production and distribution of such control.

2. To make complaint to the Interstate Commerce Commission with respect to rates, charges, tariffs and practices relating to the transportation of coal, in order to safeguard the interests of those concerned either in mining, transportation, selling or consumption.

"It would thus appear," McCarl declared, "that there are imposed upon the commission certain duties which may be exercised without reference to the portions of the act nullified by the decision of the Supreme Court, and it is the opinion of the Comptroller General that the commission and the performance by it of said duties are not negatived by the court's decision."

From this analysis he concluded that the appropriation for the 1936 activities of the commission is available for these necessary duties.

Charles P. Hosford, Jr., chairman of the coal commission, said a study would be required to determine whether any of the 750 persons employed by the Commission would be dismissed because of the reduction in the scope of activities ordered by the Supreme Court's decision.

PUERTO RICAN UNIONS BACK EDUCATION BILL

Organized Labor Supports Measure For the Assistance Granted in the Cultural Development of the Masses Who Lack Elementary Schooling.

By A. F. of L. News Service.

San Juan, P. R.—In a petition to Senator Winship, chairman of the Executive Council of the Free Federation of Labor of Puerto Rico wholeheartedly endorsed the bill recently passed by the Legislature to create a bureau, annexed to the Department of Labor, here, for social education of the masses of laborers. The measure also provides that the Commissioner of the bureau and determines the cooperation that the municipalities of Puerto Rico shall render in realizing its objective.

The petition was signed by Francisco Paz Granela, acting president, and Cirilo Aviles, acting secretary, of the Free Federation.

Text of Resolution

The text follows:

Hon. Blanton Winship, Governor of Puerto Rico:

"Petition regarding 'Joint Resolution to create a Bureau for Social and Cultural Promotion of the Laborers, annexed to the Department of Labor of Puerto Rico; to determine its duties; to provide funds for its maintenance; to determine the cooperation that municipalities of Puerto Rico shall give this Bureau for the proper accomplishment of its purposes; and for other purposes.'

"Whereas, The program of workers' education is an activity of the American Federation of Labor which has been developed with the best of results and

"Whereas, The Free Federation of Labor of Puerto Rico is affiliated to the American Federation of Labor; and

"Whereas, The Free Federation of Labor is an institution which has always fostered the social and cultural advancement of our working classes; and

"Whereas, More than two-thirds of our population is made up of laborers who have never had an opportunity to train themselves in clear thinking through the study of those questions closely related to their daily lives as workers and as citizens; and

"Whereas, Workers' education is adapted to the necessities of the American Federation of Labor; and

"Whereas, The Free Federation of Labor is in institution which has always fostered the social and cultural advancement of our working classes; and

"Whereas, More than two-thirds of our population is made up of laborers who have never had an opportunity to train themselves in clear thinking through the study of those questions closely related to their daily lives as workers and as citizens; and

"Whereas, Workers' education is adapted to the necessities of the American Federation of Labor; and

"Whereas, The Free Federation of Labor is an